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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,629	02/18/2004	Taku Takaki	16869P-095900US	5096
20350 7590 04/09/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
TAYLOR, BARRY W				
ART UNIT		PAPER NUMBER		
2617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,629

Applicant(s)

TAKAKI ET AL.

Examiner

Barry W. Taylor

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,10,12,13,15,17,19 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5,12,15,17 and 19 is/are allowed.
- 6) ☒ Claim(s) 1,3,6,10,13,21,22 and 24 is/are rejected.
- 7) ☒ Claim(s) 23,25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/30/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. The claimed invention is directed to non-statutory subject matter. Claims 13 and 15 are non-statutory because they do not meet the interim guidelines, which require:

- a) computer program
- b) computer program readable storage medium
- c) computer program must be encoded/embodied on the computer

readable medium.

For example, the proper form would be: A computer readable code encoded on a computer readable medium, the computer readable code comprising: etc. Another example: An article of manufacture, comprising: a computer-readable medium having stored thereon instructions operable to: etc.

Therefore, since claims 13 and 15 simply recite a computer readable medium is not sufficient. The program must be encoded/embodied on the computer readable storage medium to have support under the interim guidelines.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1, 3, 10, 13, 21-22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al (6,263,209) in view of Bansal et al (6,898,569 hereinafter Bansal).

Regarding claims 1 and 21. Reed teaches a communication device comprising:
a storage unit configured to store an input time, a transmission destination, and a first message (see memory 212 figure 2);

a clock function unit configured to reference a current time (see clock 207 figure 2);

an input unit configured to receive input from a user (see keyboard 220 figure 2);

a notification unit configured to provide notification to the user (see alert 218 figure 2);

a transmission unit configured to transmit the first message stored in the storage unit to the transmission destination (see col. 1 lines 13-40, col. 7 lines 49-62, col. 8 lines 10-18 where if user is going to be late for a meeting other users are notified that the user is going to be late).

Reed does not appear to teach a control unit configured to control the notification unit to provide notification to the user when the input time stored in the storage unit matches the current time indicated by the clock function unit, to control the transmission unit to transmit the first message when no input indicating transmission cancellation is provided through the input unit within a predetermined length of time from the notification, and to control the transmission unit to not transmit the first message when input indicating transmission cancellation is provided through the input unit within the predetermined length of time from the notification. However, Reed teaches notifying the amount of delay (col. 7 lines 55-63) which reads on the newly recited wherein clause.

Bansal also teaches a method and apparatus for advanced scheduling and messaging system (title, abstract, col. 2 lines 20-44) wherein when it is determined that a user will be late for an appointment, an attendee notification message is automatically generated. Bansal also teaches a storage unit configured to store an input time, transmission destination, and a first message (see col. 3 lines 40-65, col. 4 lines 14-36 wherein user inputs appointment time, transmission destination information, and message to be transmitted to others when user is running late for meeting. For example, "I am running [x] minutes late"). Bansal also teaches transmitting the first message when no input indicating transmission cancellation is provided (see col. 4 lines

37-62 wherein if user does not confirm that he or she will be late (i.e. cancel sending message to attendees), the scheduling unit will automatically send a message to the other attendees informing them that the user will be late).

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the teachings of Reed to incorporate custom default message as taught by Bansal in order to not only tell others that the user will be late for a meeting but inform them of how many minutes that the user will be delayed thereby allowing the meeting to be rescheduled or cancelled based on how late the user will be as disclosed by Bansal.

Regarding claim 3. Reed teaches wherein the first message communicates a delay to the transmission destination (see col. 1 lines 13-40, col. 7 lines 49-62, col. 8 lines 10-18 where if user is going to be late for a meeting other users are notified that the user is going to be late).

Reed does not teach the second message communicates a length of the delay to the transmission destination.

Bansal also teaches a method and apparatus for advanced scheduling and messaging system (title, abstract, col. 2 lines 20-44) wherein when it is determined that a user will be late for an appointment, an attendee notification message is automatically generated. Bansal also teaches a storage unit configured to store an input time, transmission destination, and a first message (see col. 3 lines 40-65, col. 4 lines 14-36 wherein user inputs appointment time, transmission destination information, and message to be transmitted to others when user is running late for meeting. For

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example, "I am running [x] minutes late"). Bansal also teaches transmitting the first message when no input indicating transmission cancellation is provided (see col. 4 lines 37-62 wherein if user does not confirm that he or she will be late (i.e. cancel sending message to attendees), the scheduling unit will automatically send a message to the other attendees informing them that the user will be late).

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the teachings of Reed to incorporate custom default message as taught by Bansal in order to not only tell others that the user will be late for a meeting as taught by Reed but inform them of how many minutes that the user will be delayed thereby allowing the meeting to be rescheduled or cancelled based on how late the user will be as disclosed by Bansal.

Regarding claim 10. Method claim 10 is rejected for the same reason as apparatus claim 1 since the recited apparatus would perform the claimed method steps.

Regarding claim 13. Program claim 13 is rejected for the same reason as apparatus claim 1 and method claim 10 since the recited apparatus and method claims would perform the claimed program steps.

Regarding claims 22 and 24. Reed teaches notifying the amount of delay (col. 7 lines 55-63) which reads on the newly recited wherein clause. Bansal also teaches notifying the amount of delay (col. 4 lines 14-46).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al (6,263,209) in view of Bansal et al (6,898,569 hereinafter Bansal) further in view of Komaki et al (2003/0108156 hereinafter Komaki).

Regarding claim 6. Reed in view of Bansal do not show the notification unit provides notification for a predetermined length of time.

Komaki teaches a communication system and method wherein user can set a desired message to be delivered to a contact device in the event that the user who is attending a meeting must also attend another meeting or will be out (paragraphs 0040 – 0044, 0061, 0082 – 0090). In other words, Komaki teaches the system will send the user a message and if the user does not respond within a predefined amount of time because he/she is attending another meeting or out of the office the system will send mail message "I'll be late" to an email address of person present in the next meeting.

It would have been obvious for any one of ordinary skill in the art at the time of invention to modify the teachings of Reed and Bansal to send an message to the user and wait for a predetermined amount of time for a user to reply as taught by Komaki in order to learn if the user's schedule has changed due to the user not being able to notify the system of his presence because the user is tied up in a previous scheduled meeting or out of the office and sending an email notice to other people in the next scheduled meeting as disclosed by Komaki.

Allowable Subject Matter

4. Claims 23, 25, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 4-5, 12, 15, 17 and 19 are allowed.

Response to Arguments

6. Applicant's arguments filed 2/5/08 have been fully considered but they are not persuasive.

a) Applicants generally argue that prior art does not teach the newly added wherein clause of "wherein following the transmission of the first message by the transmission unit, the second message is transmitted by the transmission unit when input indicating confirmation of the transmission of the first message is provided through the input unit" (see remarks starting on page 10 and continuing to page 12, paper dated 2/15/08).

The Examiner notes that the wherein clause is nothing more than indicating the length of delay which is clearly covered by the prior art cited by the Examiner. Applicants fail to define or point to the specification for support to explain "wherein following the transmission of the first message by the transmission unit, the second message is transmitted by the transmission unit when input indicating confirmation of the transmission of the first message is provided through the input unit"?

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Thursday, 6:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost, can be reached at (571) 272-7872. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Centralized Delivery Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the central fax number **(571-273-8300)**.

/Barry W Taylor/
Primary Examiner, Art Unit 2617